

REMARKS

At the issuance of the outstanding Office Action, Claims 1-9 and 12-25 were pending in the application and are rejected for the grounds and reasons set forth in the detailed action. The rejection has been made final. Claims 21- 25 have been cancelled, which is permitted pursuant to 37 CFR 1.116(b) (1).

Claims 1-9 and 12-25 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-4 of U.S. Patent No. 6,995,112. Applicant disagreed with the grounds of rejection and has already submitted a Terminal Disclaimer with respect to this patent herewith to overcome the rejection. The Terminal Disclaimer (copy attached) accompanied the Response filed by Applicant on November 16, 2006.

Claims 1-9 and 12-25 are rejected under 35 USC 102(e) as being anticipated by U.S. Patent No. 6,995,112 (Timken '112). In the attached Declaration Under 37 CFR 1.132, Applicant makes an unequivocal declaration that she conceived or invented the subject matter disclosed in the patent and relied on in the rejection. Therefore, Applicant respectfully submits that this ground for rejection has been overcome. See MPEP 715.01(a).

Claims 1-5, 8-9, 12 and 14-16, 21-22, & 25 are rejected under 35 USC § 102(b) as being anticipated by Pecoraro (U.S. Patent No. 4,988,659). The outstanding Office Action asserts that Pecoraro discloses an amorphous silica-alumina cogel catalyst composition and that it is inherent that the disclosed catalyst material of Pecoraro would possess the same catalytic properties in view of the same catalyst components being disclosed and being claimed. Applicant disagrees.

U.S. Patent No. 4,988,659 to Pecoraro neither discloses nor suggests the present invention. Granted, Pecoraro discloses an amorphous silica-alumina cogel catalyst composition. However, the compositions disclosed by Pecoraro do not anticipate the currently claimed materials. The outstanding Office Action asserts that it is inherent that the disclosed catalyst material would possess the same catalytic properties in view of the same catalyst components disclosed and being claimed. Applicant respectfully disagrees. Although the catalyst materials of the invention and the reference would be silica-alumina and have similar catalytic functions, they would not be the same materials or have identical properties.

The outstanding Office Action asserts that the Declaration under 1.132 did not compare the claimed subject matter with the subject matter of the closest prior art. Applicant disagrees. The Declaration includes the preparation of a catalyst in accordance with an example of the reference. The catalyst thus prepared had a S/B silica-alumina ratio outside the currently claimed range.

Applicant submits that because the process for preparing a silica-alumina cogel disclosed in the reference will not produce a composition in which the two oxide components are homogeneously distributed throughout the reference does not disclose a homogeneous composition as is presently claimed. The measure of homogeneity is the Surface to Bulk ratio and as the Examiner notes includes no mention of this concept. Applicant also points out that the surface area of the catalyst is an independent and distinct property than the degree of homogeneity of the two oxide components in the cogel. In this regard, Applicant requests that the Examiner reconsider the previously submitted Declaration under 37 CFR § 1.132 in which Applicant provides evidence and expert opinion that the process disclosed by Pecoraro would not produce the presently claimed compositions and withdraw this ground of rejection.

Regarding the claim rejections under 35 USC § 103, Applicant reasserts the above arguments. In light of the deficiencies pointed out with respect to the disclosure of Pecoraro, the combination with Jaffe (U.S. Patent No. 4,289,653) does not suggest the present invention.

In light of the foregoing, Applicant respectfully requests a favorable reconsideration of the Office Action of May 16, 2007 and an early Notice of Allowance.

Respectfully submitted,



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